



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.147 OF 2025

(Asha Vitthal Kothekar Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.P. Tathod, Advocate for the applicant.
Ms R.V. Sharma, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 3, 2025.

By this application, the applicant is seeking bail as she came to be arrested on 31/08/2024 in connection with Crime No.605/2024 registered with Police Station Manora, Taluka Manora, District Washim for the offences punishable under Sections 103(1) of the Bharatiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of report lodged by the brother of the deceased on an allegation that the present applicant who is the wife of the deceased having four children, on the day of incident, there was a quarrel between the husband and wife and during that quarrel, the present applicant has assaulted her husband i.e. deceased who has sustained the multiple injuries on his person and succumbed to the death. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant invited my attention towards the various statements including the statement of neighbour Meena Yogesh Kothekar, statement of the daughter and son and submitted that these statements show that as the deceased was assaulting the present applicant and save herself, she has resisted the act and assaulted him. He was under the influence of liquor, sustained the injuries and succumbed to the death. There was neither an intention to commit the murder as no weapon is used by her. He submitted that now investigation is already completed and charge-sheet is filed. Considering the circumstances under which the alleged incident has taken place, the only knowledge can be attributable to the present applicant, and therefore, the case would cover under Section 304 Part-I or Part-II of the Indian Penal Code and not under Section 302 of the IPC. Thus, considering the above all facts, the applicant be released on bail.

4. Learned APP strongly opposed the application and submitted that the statements of the witnesses show that the deceased was assaulted mercilessly by the present applicant with an intention to cause his death. The intention can be gathered from the circumstances. She further submitted that 32 injuries are found on the person of the deceased. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides and perused the investigation papers from which it reveals that there was a quarrel between the husband and wife. During that quarrel, the deceased who came home under the influence of liquor. While having food he assaulted the present applicant, and therefore, while resisting the present applicant has assaulted him by means of stick in which he has sustained multiple injuries. The nature of the injuries are laceration, abrasion and contusions. The statements of the witnesses also shows that as the deceased was assaulting her, and therefore, being annoyed with the same, she also assaulted the deceased and death of the deceased is caused. Whether it is culpable homicide amounting to murder or culpable homicide not amounting to murder is a matter of evidence. At the stage, considering the facts and circumstances under which the alleged incident has taken place, investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

(i) The application is allowed.

(ii) The applicant - Asha Vitthal Kothekar in connection with Crime No.605/2024 registered with Police Station Manora, Taluka Manora, District Washim for the offences punishable under Sections 103(1) of the

Bharatiya Nyaya Sanhita, 2023, be released on bail, on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(iv) The applicant shall not enter into the vicinity of village Manora, Taluka Manora, District Washim, till culmination of the trial.

(v) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

6. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*